

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103

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In the matter of:

Reliance Treated Wood, Inc.
2000 Industrial Park Road
Federsburg, MD 21632

Respondent,

Reliance Treated Wood, Inc.
2000 Industrial Park Road
Federsburg, MD 21632

Facility.

:
:
: U.S. EPA Docket RCRA-03-2017-0116
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:
: Proceeding under Section 3008(a) and (g)
: of the Resource Conservation and
: Recovery Act, as amended,
: 42 U.S.C. § 6928(a) and (g)
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CONSENT AGREEMENT

I. PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Land and Chemicals Division ("Complainant"), U.S. Environmental Protection Agency, Region III ("EPA" or the "Agency"), and Reliance Treated Wood, Inc. ("Respondent"), pursuant to Section 3008(a) and (g) of the Solid Waste Disposal Act, commonly known as the Resource Conservation and Recovery Act of 1976, as amended by *inter alia*, the Hazardous and Solid Waste Amendments of 1984 (collectively referred to hereinafter as "RCRA"), 42 U.S.C. § 6928(a) and (g), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("*Consolidated Rules of Practice*"), 40 C.F.R. Part 22, including, specifically, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).
2. The *Consolidated Rules of Practice*, at 40 C.F.R. § 22.13(b), provide, in pertinent part, that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding simultaneously may be commenced and concluded by the issuance of a consent agreement and final order pursuant to 40 C.F.R. § 22.18(b)(2) and (3). Pursuant thereto, this Consent Agreement and the accompanying Final Order simultaneously commence and conclude this administrative proceeding against the Respondent.

3. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A, the State of Maryland has been granted final authorization to administer its hazardous waste management program, set forth at the Code of Maryland Regulations (“COMAR”), Title 10, Subtitle 51 *et seq.*, in lieu of the federal hazardous waste management program established under RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e. The State of Maryland Hazardous Waste Management Regulations (“MdHWMR”) originally were authorized by EPA on February 11, 1985, pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b). Revisions to the MdHWMR set forth at COMAR, Title 26, Subtitle 13, were authorized by EPA effective July 31, 2001 and September 24, 2004. The provisions of the revised federally-authorized program have thereby become requirements of RCRA Subtitle C and are enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).
4. Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), authorizes EPA to initiate an enforcement action whenever it is determined that a person is in violation of any requirement of RCRA Subtitle C, EPA’s regulations thereunder, or any regulation of a state hazardous waste program which has been authorized by EPA. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), authorizes the assessment if a civil penalty against any person who violates any requirement of Subtitle C of RCRA.
5. This Consent Agreement (“CA”) and the accompanying Final Order (“FO”) (collectively, the “CAFO”) address alleged violations by Respondent of Subtitle C of RCRA, 42 U.S.C. §§ 6921–6939g, certain federally-authorized Maryland hazardous waste regulations, set forth at COMAR, Title 26, Subtitle 13 *et seq.*, and certain of the federal hazardous waste regulations, set forth at 40 C.F.R. Parts 260–266 and 273, for which the State of Maryland has not been granted authorization to administer in lieu of the federal hazardous waste management program under HSWA, in connection with Respondent’s facility. Respondent’s facility is located at 2000 Industrial Park Road, Federalsburg, MD 21632 (“Facility”) and is further described below.
6. Factual allegations or legal conclusions in this CA that are based on provisions of federally-authorized MdHWMR cite those respective provisions as the authority for such allegations or conclusions.
7. In accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), and by written letter dated July 7, 2016, EPA notified the Maryland Department of the Environment (“MDE”) of EPA’s intent to commence this administrative action against Respondent in response to the violations of RCRA Subtitle C that are alleged herein.

II. GENERAL PROVISIONS

8. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.

9. Respondent neither admits nor denies the specific factual allegations or the conclusions of law contained in the CAFO, except as provided in Paragraph 8, above.
10. Respondent agrees not to contest EPA's jurisdiction with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this CAFO.
11. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and any right to appeal the accompanying Final Order.
12. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.
13. Respondent shall bear its own costs and attorney's fees.
14. This CAFO shall not relieve Respondent of its obligations to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit; nor does this CAFO constitute a waiver, suspension or modification of the requirements of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, or any regulations promulgated and/or authorized thereunder.

III. EPA FINDINGS OF FACT AND CONCLUSIONS OF LAW

15. In accordance with the *Consolidated Rules of Practice* at 40 C.F.R. §§22.13(b) and 22.18(b)(2) and (3), Complainant makes the following findings of fact and conclusions of law:
16. EPA has jurisdiction over this matter pursuant to RCRA Section 3008(a) and (g), 42 U.S.C. § 6928(a) and (g).
17. Respondent is a corporation incorporated in the State of Maryland. Respondent is now, and was at the time of the violations alleged herein, a "person" as that term is defined in Section 1004(15) of RCRA, 42 U.S.C. Section 6903(15), and COMAR 26.13.01.03B(61).
18. The Facility is located on a parcel of land approximately 14 acres in size located at Federalsburg Industrial Park, Federalsburg, Maryland. The Facility consists of a drip pad for treated wood, a storage yard at which infrequent and incidental drippage from treated wood occurs, and all continuous land, and structures, other appurtenances, and improvements on the land, used for the generation and storage of hazardous waste.
19. On or about August 17, 1981, Respondent submitted a Notification of Hazardous Waste Activity ("Notification") for the Facility, pursuant to Section 3010 of RCRA, 42 U.S.C.

§ 6930, to EPA, Region III, identifying the Facility as a generator of hazardous waste. Subsequently, the Facility was assigned EPA I.D. Number MDD980537690.

20. At all times relevant to the allegations set forth in this CA, Respondent is, and has been, the “operator” and the “owner” of the Facility, as those terms are defined in COMAR 26.13.01.03.B(58) and (59), during the period of the violations alleged in this CAFO.
21. As described below, at all times relevant to the allegations set forth in this CA, Respondent is, and has been, a “generator” of “solid waste” and “hazardous waste” at the Facility, as these terms are defined in COMAR 26.13.01.03.B(29), (73) and (31). Respondent generates wood preservative drippage hazardous waste which is chromated copper arsenate (“CCA”), with EPA Hazardous Waste No. F035.
22. At all times relevant to the allegations set forth in this CA, and as described below, Respondent is, and has been, engaged in the temporary “storage” of “solid waste” and “hazardous waste” in “containers” and on a “drip pad” at the Facility, as well as in the collection system and a “sump” associated with the treatment cylinders, as those terms are defined in COMAR 26.13.01.03.B(9), (16-1), (31), (73), (76) and (76-1).
23. The drip pad at the Facility was initially constructed in 1974, when the Facility opened, and reconstructed and expanded in 1998, at which time a liner was installed. Therefore, the drip pad is an “existing drip pad,” as defined in COMAR 26.13.05.17-1A(2)(a).
24. On March 23, 2016, a duly-authorized representative of EPA (“EPA Inspector”) conducted a Compliance Evaluation Inspection at the Facility (the “CEI” or “Inspection”), to examine the Respondent’s compliance with the federally-authorized MdHWMR and applicable federal hazardous waste regulations.
25. On November 29, 2016, EPA sent a Request to Show Cause and Request for Information (“Show Cause letter”) to Respondent advising it of EPA’s preliminary findings of violations at the Facility and offering the Respondent an opportunity to provide such additional information as it believed the Agency should review and consider before reaching any final conclusions as to the Respondent’s compliance with the MdHWMR and federal hazardous waste regulations at the Facility.
27. On the basis of EPA’s findings during the Inspection and Respondent’s response to EPA’s Show Cause letter, EPA concludes that Respondent has violated certain requirements and provisions of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, certain federally-authorized MdHWMR requirements promulgated thereunder, and certain applicable federal hazardous waste regulations.
28. At all times relevant to the allegations set forth in this CA, Respondent’s Facility is, and has been, a hazardous waste storage “facility” as that term is defined in COMAR 26.13.01.03.B(23).

COUNT I

(Operating a Treatment, Storage, and Disposal Facility without a Permit or Interim Status)

31. The information in the preceding Paragraphs is incorporated herein by reference, as though fully set forth at length.
32. Pursuant to Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and COMAR 26.13.07.01A, with exceptions not relevant to this matter, no person may own or operate a facility for the treatment, storage or disposal of hazardous waste without first obtaining a permit or interim status for such facility.
33. Respondent has never had a permit or interim status, pursuant to COMAR 26.13.07.01 or Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), for the storage of hazardous waste at the Facility.

Generator Accumulation of Hazardous Waste (the "Generator Permit Exemption")

34. COMAR 26.13.03.05E(1) provides:
 - E. Accumulation Time.
 - (1) A generator may accumulate hazardous waste on-site without a permit for 90 days or less if:
 - (a) The waste is shipped off-site within 90 days to a permitted facility or placed in an on-site permitted facility;
 - (b) The generator accumulates the waste:
 - (i) In containers,
 - (ii) In tanks, or
 - (iii) On drip pads, if the waste is drippage from a wood-preserving process, precipitation, or surface water run-on;
 - * * *
 - (f) The generator complies with the requirements for owners or operators in COMAR 26.13.0S.02G [personnel training], .03 [preparedness and prevention], and .04 [contingency plan and emergency procedures];

Generator Permit Exemption: Drip Pads and Storage Yards

35. COMAR 26.13.03.05E(1)(l) provides, "A generator may accumulate hazardous waste on-site without a permit or without holding interim status for 90 days or less if: . . .
 - (l) The generator, if accumulating hazardous waste on drip pads:

- (i) Accumulates the waste in accordance with COMAR 26.13.03.05.17.1 – 17.4,
 - (ii) Maintains, at the facility, a description of procedures that are followed to ensure that all wastes are removed from the drip pad, the sump, and the collection system at least once every 90 days,
 - (iii) Maintains documentation at the facility, for each waste removal, the date, the time, and the quantity of waste removed from the drip pad, the sump, and the collection system, and
 - (iv) Notifies the Secretary of the intent to close a drip pad at least 45 days before closure begins.
- 36. Although the provisions of COMAR 26.13.03.05E(1) provide hazardous waste generators with an exemption from the permitting requirements for the temporary accumulation (90 days or less) of hazardous waste generated by a facility (referred to here as the “90-day accumulation exemption”), Respondent failed to meet the conditions necessary to qualify for the exemption set forth in COMAR 26.13.03.05E(1)(l).
- 37. The following acts or omissions prevented Respondent from meeting the regulatory permit exemption condition in COMAR 26.13.03.05(E)(1)(a): Respondent stored treated wood preservative drippage hazardous waste, containing chromated copper or arsenate, EPA Hazardous Waste Code No. F035, on-site at the Facility in the collection system and sump, for time periods in excess of the 90-day accumulation limitation set forth at COMAR 26.13.03.05E(1), from November 23, 2015 to March 1, 2016 (99 days total, 9 days beyond the 90-day time limit);
- 38. The following acts or omissions, further described below, prevented Respondent from meeting the regulatory permit exemption conditions in COMAR 26.13.03.05(E)(1)(f): from April 2012 through March 23, 2016, Respondent failed to have an adequate Contingency Plan, and failed to provide job titles, job descriptions and training requirements for positions related to hazardous waste management.
- 39. The following acts or omissions, further described below, prevented Respondent from meeting the regulatory permit exemption conditions in COMAR 26.13.03.05(E)(1)(l)(i):
 - a. During calendar years 2011, 2012, 2013 and 2015, Respondent failed to have the assessment of the Facility drip pad updated, reviewed and recertified annually, in violation of COMAR 26.13.05.17-1(B)(1)(b). During the EPA Inspection, Respondent only presented the EPA inspector with one certified assessment of the drip pad since the year 2005, and that certified assessment was dated 2014.

- b. On March 23, 2016, Respondent failed to maintain the drip pad so that it remained free of cracks, gaps, corrosion, or other deterioration that could cause hazardous waste to be released from the drip pad, in violation of COMAR 26.13.05.17-2(D)(1) and 26.13.05.17-2(A)(1)(c). On that date there was a breach in the curb around the perimeter of the drip pad.
40. For each of the reasons and during each of the dates and time periods identified in Paragraph 37 through 39, above, Respondent failed to comply with the permit exemption conditions set forth in COMAR 26.13.03.05E(1) as identified in Paragraphs 34 and 35, above, for temporary (*i.e.*, 90 days or less) accumulation of hazardous waste by a generator at the Facility, as required pursuant to COMAR 26.13.03.05E(1), and therefore failed to qualify for an exemption from the permitting/interim status requirements provided by such section.
41. For each of the reasons and during each of the dates and time periods identified in Paragraph 37 through 39, above, Respondent engaged in the operation of a hazardous waste storage facility (*i.e.*, the Facility) without having interim status or obtaining a permit for the Facility pursuant to Section 3005 of RCRA, 42 U.S.C. § 6925, or COMAR 26.13.07.01A.
42. During the calendar years 2012, 2013, 2015, and on March 23, 2016, Respondent violated COMAR 26.13.07.01A and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), by operating a hazardous waste storage facility (*i.e.*, the Facility) without a permit, interim status or valid exemption to the permitting/interim status requirements.

COUNT II

(Failure to Obtain and Keep on File an Annual Written Assessment of Drip Pad)

43. The allegations in the preceding Paragraphs are incorporated herein by reference, as though fully set forth at length.
44. The provisions of COMAR 26.13.05.17-1(B)(1)(b) require that an owner or operator of a drip pad shall “[h]ave obtained and shall keep on file at the facility a written assessment of the drip pad that documents the extent to which the drip pad meets each of the design and operating standards of Regulation .17-2 of this chapter, except for the standards for liners and leak detection systems specified in Regulation .17-2C of this chapter.” COMAR 26.13.05.17-1(B)(1)(c) requires that an owner or operator of a drip pad shall: “assure that the assessment required by [COMAR 26.13.05.17-1(B)(1)(b)] of this regulation (i) Has been reviewed and certified by an independent qualified registered professional engineer that attests to the results of the evaluation, and (ii) Is reviewed, updated and recertified annually until all upgrades, repairs or modifications necessary to achieve compliance with all of the standards of Regulation .17-2C of this chapter are complete.”

45. At the time of the Inspection on March 23, 2016, Respondent failed to provide records for the years 2011, 2012, 2013 and 2015 of an annual assessment of the Facility's drip pad, which was reviewed and certified by an independent qualified registered professional engineer ("PE") that attested to the results of the evaluation. After the year 2005, Respondent only had a PE certification for the drip pad for the year 2014.
46. During the calendar years 2012, 2013, and 2015, Respondent violated COMAR 26.13.05.17-1(B)(1)(c) by failing to have obtained records of an annual assessment of the Facility's drip pad, which was reviewed and certified by an independent qualified registered professional engineer that attested to the results of the evaluation.

COUNT III
(Failure to Maintain Drip Pad)

47. The allegations in the preceding Paragraphs are incorporated herein by reference, as though fully set forth at length.
48. COMAR 26.13.05.17-1(D) requires that, "the owner or operator of an existing drip pad shall either: (1) Comply with Regulation .17-2A(2) of this chapter concerning drip pad permeability; or (2) Install a liner and leakage detection and collection system that meets the requirements of Regulation .17-2C of this chapter."
49. COMAR 26.13.05.17-2(A)(1) requires that "[t]he owner or operator of a drip pad shall ensure that: (1) The drip pad: (a) Is constructed of non-earthen materials, excluding wood and non-structurally supported asphalt, (b) Is sloped to efficiently drain treated wood drippage, rain and other waters, or solutions of drippage and water or other wastes to the associated collection system, and (c) Has a curb or berm around the perimeter."
50. At the time of the Inspection on March 23, 2016, Respondent failed to maintain its drip pad. The curb around the drip pad was broken.
51. On March 23, 2016, Respondent violated COMAR 26.13.05.17-1(D)(1) and 26.13.05.17-2(A)(1)(c) by failing to maintain a functioning curb or berm around the perimeter drip pad.

COUNT IV
(Failure to Maintain Adequate Contingency Plan)

52. The allegations in the preceding Paragraphs are incorporated herein by reference, as though fully set forth at length.
53. The provisions of COMAR 26.13.05.04, pertaining to the "Contingency and Emergency Procedures," provide as follows:

A. Applicability. This regulation applies to owners and operators of all hazardous waste facilities [with an exception not herein applicable].

B. Purpose and Implementation of Contingency Plan.

- (1) Every owner or operator shall have a contingency plan for his facility . . . designed to minimize hazards to human health and the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water. . . .

C. Content of Contingency Plan.

- (1) The contingency plan shall describe the actions facility personnel shall take . . . in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water at the facility . . . [;]

* * *

- (3) The plan shall describe the arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services . . . [;]
- (4) The plan shall list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator . . . and this list shall be kept up to date . . . [;]
- (5) The plan shall include a list of emergency equipment at the facility . . . [; and]
- (6) The plan shall include an evacuation plan for facility personnel . . .”.

D. Copies of Contingency Plan. A copy of the contingency plan and all revisions to the plan shall be:

- (1) Maintained at the facility

54. Respondent’s Facility Contingency Plan, in effect from 2006 through March 23, 2016, did not describe arrangements agreed to by local authorities.

55. Respondent’s Facility Contingency Plan, in effect from 2006 through March 23, 2016, did not list home addresses for emergency coordinators.

56. From April 2012 through March 23, 2016, Respondent violated the requirements of COMAR 26.13.05.04C(1)(3) by failing to include in its Contingency Plan a description of the arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services.
57. From April 2012 through March 23, 2016, Respondent also violated the requirements of COMAR 26.13.05.04C(4) by failing to include, in the Facility's contingency plan, the home addresses of all persons qualified to act as emergency coordinator at the Facility.

COUNT V
(Failure to Maintain Personnel Records)

58. The allegations in the preceding Paragraphs are incorporated herein by reference, as though fully set forth at length.
59. The provisions of COMAR 26.13.05.02G, entitled "Personnel Training," provide, in relevant and applicable part, as follows:
 - (4) The owner or operator shall maintain the following documents and records at the facility:
 - (a) The job title for each position at the facility related to hazardous waste management, and the name of each employee filling each job.
 - (b) A written job description for each position listed under [COMAR 26.13.05.02] § G(4)(a), above
 - (c) A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed under [COMAR 26.13.05.02] § G(4)(a), above.
 - * * *
 - (5) Training records on current personnel shall be kept until closure of the facility....
60. At the time of the Inspection on March 23, 2016, upon request by the EPA Inspector, Respondent failed to provide job titles and job descriptions related to hazardous waste management, and failed to provide a written description of the type and amount of introductory and continuing training that would be given to each person filling a position related to hazardous waste management.
61. From April 2012 through March 23, 2016, Respondent violated the requirements of COMAR 26.13.05.02G(4) by failing to maintain job titles and job descriptions related to

hazardous waste management, as well as failing to maintain a written description of the type and amount of introductory and continuing training that would be given to each person filling a position related to hazardous waste management.

COUNT VI
(Failure to Make a Waste Determination)

62. The allegations in the preceding Paragraphs are incorporated herein by reference, as though fully set forth at length.
63. The provisions of COMAR 26.13.03.02A require that a person who generates a solid waste, as defined in 26.13.03.02 shall determine whether the waste is a hazardous waste using one of the specified methods, as set forth in COMAR 26.13.02A(1) – (3).
64. At the time of the Inspection on March 23, 2016, Respondent was storing two 6' long waste lamps and two 4' long waste lamps at the Facility. The waste lamps were not stored in a container, but instead were sitting on top of a tote. There was no label indicating whether these lamps were solid or hazardous waste.
65. On March 23, 2016, Respondent violated the requirements of COMAR 26.13.03.02A by failing to determine whether four waste lamps were hazardous waste using one of the specified methods in COMAR 26.13.02A(1) – (3).

IV. CIVIL PENALTIES

66. Respondent agrees to pay a civil penalty in the amount of **\$69,000.00 (SIXTY-NINE THOUSAND DOLLARS)** in full and final settlement and satisfaction of all civil claims for penalties which Complainant may have concerning the violations and facts alleged and set forth in Section III (“EPA Findings of Fact and Conclusions of Law”) of this Consent Agreement. Such civil penalty shall become due and payable immediately upon Respondent’s receipt of a true and correct copy of this CAFO. In order to avoid the assessment of interest, administrative costs and late payment penalties in connection with such civil penalty, Respondent must pay such civil penalty no later than thirty (30) calendar days after the date on which a copy of this CAFO is mailed or hand-delivered to Respondent.
67. The civil penalty settlement amount set forth in Paragraph 66, immediately above, was determined after consideration of the statutory factors set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), which include the seriousness of the violation and any good faith efforts to comply with the applicable requirements. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA’s October, 1990 RCRA Civil Penalty Policy, as revised in June, 2003 (“RCRA Penalty Policy”), which reflect the statutory penalty criteria and factors set forth at Section 3008(a)(3) and (g) of RCRA, 42 U.S.C. §§ 6928(a)(3) and (g). Complainant has

also considered the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. Part 19, and the July 27, 2016 Memorandum by EPA Assistant Administrator, Cynthia Giles, entitled, "Amendments to the U.S. Environmental Protection Agency's Civil Penalty Policies to Account for Inflation," (effective August 1, 2016). The settlement in this proceeding is consistent with the provisions and objectives of Section 3008 of RCRA, and its implementing regulations.

68. Payment of the civil penalty set forth in Paragraph 66, above, plus any interest, administrative fees, and late payment penalties owed, in accordance with Paragraphs 70 through 73, below, shall be made by either cashier's check, certified check, or electronic wire transfer, in the following manner:
- a. All payments by Respondent shall reference Respondent's name and address, and the EPA Docket Number of this Consent Agreement, i.e., RCRA03-2017-0116;
 - b. All checks shall be made payable to "**United States Treasury**;"
 - c. All payments made by check and sent by regular mail shall be addressed and mailed to:

U.S. Environmental Protection Agency
Fine and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Customer service contact: 513-487-2091

- d. All payments made by check and sent by overnight delivery service shall be addressed and mailed to:

U.S. Environmental Protection Agency
Cincinnati Finance Center
Government Lockbox 979077
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

Contact: 314-418-1818

- e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance
US EPA, MS-NWD
26 W. M.L. King Drive

Cincinnati, OH 45268-0001

- f. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read:
“D 68010727 Environmental Protection Agency”

- g. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver
ABA = 051036706
Account No.: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737

Contact: 866-234-5681

- h. On-Line Payment Option: WWW.PAY.GOV/paygov/

Enter **sfo 1.1** in the search field. Open and complete the form.

- i. Additional payment guidance is available at:

<http://www2.epa.gov/financial/makepayment>

or by contacting Craig Steffen at 513-487-2091

69. At the time of payment, Respondent shall send a notice of such payment, including a copy of the check or electronic fund transfer, as applicable, to:

Ms. Lydia Guy
Regional Hearing Clerk (3RC00)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029;

and

Natalie Katz
Sr. Assistant Regional Counsel (3RC30)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029.

70. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest, administrative costs and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment or to comply with the conditions in this CAFO shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
71. In accordance with 40 C.F.R. § 13.11(a), interest on any civil penalty assessed in a CAFO begins to accrue on the date that a copy of the CAFO is mailed or hand-delivered to the Respondent. However, EPA will not seek to recover interest on any amount of such civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
72. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's Resources Management Directives - Cash Management, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
73. A late payment penalty of six percent (6%) per year will be assessed monthly on any portion of a civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on a debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
74. The Respondent agrees not to deduct for federal tax purposes the civil monetary penalty specified in this Consent Agreement and the accompanying Final Order.

V. CERTIFICATIONS

75. Respondent certifies to Complainant by its signature hereto, to the best of Respondent's knowledge and belief, that Respondent is in compliance with all relevant provisions of the current, authorized revised MdHWMR and of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, for which violations are alleged in this Consent Agreement.

VI. OTHER APPLICABLE LAWS

76. Nothing in this CAFO shall relieve Respondent of any duties otherwise imposed upon it by applicable federal, state, or local law and/or regulation.

VII. RESERVATION OF RIGHTS

77. This CAFO resolves only EPA's claims for civil penalties for the specific violations and facts which are alleged in this Consent Agreement. Nothing in this CAFO shall be construed as limiting the authority of EPA to undertake action against any person, including the Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO following its filing with the Regional Hearing Clerk.

VIII. FULL AND FINAL SATISFACTION

78. This settlement shall constitute full and final satisfaction of all civil claims for penalties which Complainant has under RCRA Section 3008(a) and (g), 42 U.S.C. § 6928(a) and (g), for the violations alleged in this Consent Agreement.

IX. PARTIES BOUND

79. This CAFO shall apply to and be binding upon the EPA, the Respondent, Respondent's officers and directors (in their official capacity) and Respondent's successors and assigns. By his or her signature below, the person signing this Consent Agreement on behalf of Respondent acknowledges that he or she is fully authorized to enter into this Consent Agreement and to bind the Respondent to the terms and conditions of this CAFO.

X. EFFECTIVE DATE

80. The effective date of this CAFO is the date on which the Final Order is filed with the Regional Hearing Clerk after signature by the Regional Administrator or his designee, the Regional Judicial Officer.


XI. ENTIRE AGREEMENT

81. This CAFO constitutes the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties,

covenants, terms or conditions agreed upon between the parties other than those expressed in this CAFO.

For Respondent:

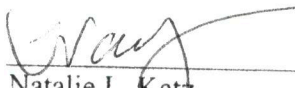
Date: 3-27-17

By: 
Name: **KEVIN DOREMAN**
Title: **PLANT MANAGER**

For the Complainant:

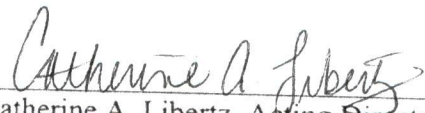
Date: 4/4/17

U.S. Environmental Protection Agency, Region III

By: 
Natalie L. Katz
Sr. Assistant Regional Counsel

After reviewing the EPA Findings of Fact and Conclusions of Law and other pertinent matters, the Land and Chemicals Division of the United States Environmental Protection Agency, Region III, recommends that the Regional Administrator, or his designee, the Regional Judicial Officer, issue the attached Final Order.

Date: 4-13-17

By: 
Catherine A. Libertz, Acting Director
Land and Chemicals Division

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103

In the matter of:

Reliance Treated Wood, Inc.
2000 Industrial Park Road
Federalsburg, MD 21632

Respondent,

Reliance Treated Wood, Inc.
2000 Industrial Park Road
Federalsburg, MD 21632

Facility.

:
:
: U.S. EPA Docket RCRA-03-2017-0116
:
:
: Proceeding under Section 3008(a) and (g)
: of the Resource Conservation and
: Recovery Act, as amended,
: 42 U.S.C. § 6928(a) and (g)
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FINAL ORDER

Complainant, the Director, Land and Chemical Division, U.S. Environmental Protection Agency, Region III, and Reliance Treated Wood, Inc. ("Respondent"), have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. § 22.18(b)(2) and (3). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated herein as if set forth at length herein.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA's October, 1990 RCRA Civil Penalty Policy, as revised in June, 2003 ("RCRA Penalty Policy"), and the statutory factors set forth in Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

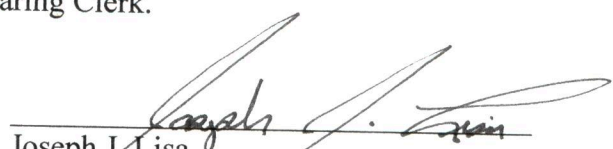
NOW, THEREFORE, PURSUANT TO Section 3008(a) and (g) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6928(a) and (g) ("RCRA"), and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondents pay a civil penalty payment of **\$69,000.00 (SIXTY-NINE THOUSAND DOLLARS)**, in accordance with the payment provisions set forth in of the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

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EPA REGION III, PHILADELPHIA

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The effective date of the attached Consent Agreement and this Final Order is the date on which the Final Order is filed with the Regional Hearing Clerk.

April 20, 2017
Date:



Joseph J. Lisa
Regional Judicial Officer
U.S. EPA, Region III

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III

In the matter of:

Reliance Treated Wood, Inc.
2000 Industrial Park Road
Federalsburg, MD 21632

Respondent,

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EPA REGION III, PHILA. PA

CERTIFICATE OF SERVICE

I certify that on the date noted below, I sent by UPS Next Day Delivery, a copy of the Consent Agreement and Final Order to the addressee(s) listed below:

Donald B. Mitchell
Arent Fox LLP
1717 K Street, NW
Washington, DC 20006-5344

The original and one copy of were hand-delivered to, and filed with, the Regional Hearing Clerk, U.S. EPA Region III.

Dated: 4/20/17


Natalie Katz (3RC30)
Senior Assistant Regional Counsel
EPA Region III
1650 Arch Street
Philadelphia, PA 19103